

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

KUTT et al.

Serial No.: Not Yet Assigned

Filed: Herewith

Atty. File No.: 4239-3-1-1

For: "METHOD AND SYSTEM FOR
REDUCING BODY WEIGHT IN AN
ENCLOSED ATMOSPHERIC
ENVIRONMENT"

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Group Art Unit:

Examiner:

INFORMATION DISCLOSURE STATEMENT

"EXPRESS MAIL" MAILING LABEL NUMBER: EV368035519US
DATE OF DEPOSIT: 3/22/04

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE
"EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE
UNDER 37 C.F.R. 1.10 ON THE DATE INDICATED ABOVE AND IS
ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX
1450, ALEXANDRIA, VA 22313-1450.

TYPED OR PRINTED NAME: Brenda Carpenter
SIGNATURE: Brenda Carpenter

Dear Sir:

The references cited on attached Form PTO-1449 are being called to the attention of the Examiner.

- ☐ Copies of the cited non-patent and/or foreign references are enclosed herewith.
☐ Copies of the cited U.S. patents/patent application publications are not enclosed in

accordance with the waiver dated July 11, 2003, whereby patent applications filed after June 30, 2003 and international applications that have entered the national stage under 35 U.S.C. § 371 after June 30, 2003 need not submit copies of U.S. patents and U.S. patent application publications.

☒ Copies of the cited references are not enclosed, in accordance with 37 C.F.R. 1.98(d), because the references were submitted to the U.S. Patent and Trademark Office in prior application Serial No. 10/423,692 filed April 24, 2003, which is a continuation application of application Serial No. 09/948,410 filed September 6, 2001, which is relied upon for an earlier filing date under 35 U.S.C. § 120.

☐ To the best of applicants' belief, the pertinence of the foreign-language references are believed to be summarized in the attached English abstracts and in the figures, although applicants do not necessarily vouch for the accuracy of the translation.

☐ Examiner's attention is drawn to the following co-pending applications, copies of which have been or are being submitted:

Serial No. _____ filed _____

Serial No. _____ filed _____

☐ Other: _____

Submission of the above information is not intended as an admission that any item is citable under the statutes or rules to support a rejection, that any item disclosed represents analogous art, or that those skilled in

the art would refer to or recognize the pertinence of any reference without the benefit of hindsight, nor should an inference be drawn as to the pertinence of the references based on the order in which they are presented. Submission of this statement should not be taken as an indication that a search has been conducted, or that no better art exists.

It is respectfully requested that the cited information be expressly considered during the prosecution of this application and the references made of record therein.

FEES

<input checked="" type="checkbox"/>	<p>37 CFR 1.97(b): No fee is believed due in connection with this submission, because the information disclosure statement submitted herewith satisfies one of the following conditions ("X" indicates satisfaction):</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d), or <input type="checkbox"/> Within three months of the date of entry into the national stage of an international application as set forth in 37 CFR 1.491 or <input type="checkbox"/> Before the mailing date of a first Office Action on the merits, or <input type="checkbox"/> Before the mailing of a first Office action after the filing of a request for continued examination under 37 CFR 1.114. </div> <p>Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p>
<input type="checkbox"/>	<p>37 CFR 1.97(c): The information disclosure statement transmitted herewith is being filed after all the above conditions (37 CFR 1.97(b)), but before the mailing date of one of the following conditions:</p> <div style="margin-left: 20px;"> (1) a final action under 37 C.F.R. 1.113 or (2) a notice of allowance under 37 C.F.R. 1.311, or (3) an action that otherwise closes prosecution in the application. </div> <p>This Information Disclosure Statement is accompanied by:</p> <div style="margin-left: 20px;"> <input type="checkbox"/> A Certification (below) as specified by 37 C.F.R. 1.97(e). Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970. </div> <p style="text-align: center;">OR</p> <div style="margin-left: 20px;"> <input type="checkbox"/> A check in the amount of \$180.00 for the fee set forth in 37 C.F.R. 1.17(p) for submission of an information disclosure statement. Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970. </div>
<input type="checkbox"/>	<p>37 CFR 1.97(d): This Information Disclosure Statement is being submitted after the period specified in 37 CFR 1.97(c).</p> <div style="margin-left: 20px;"> <input type="checkbox"/> This information Disclosure Statement includes a Certification (below) as specified by 37 C.F.R. 1.97(e) </div> <p style="text-align: center;">AND</p> <div style="margin-left: 20px;"> <input type="checkbox"/> Applicants hereby request consideration of the reference(s) disclosed herein. Enclosed is the fee in the amount of \$180.00 under 37 C.F.R. 1.17(p). Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970. Election to pay the fee should not be taken as an indication that applicant(s) cannot execute a certification. </div>

Certification (37 C.F.R. 1.97(e))
(Applicable only if checked)

☐ The undersigned certifies that:

☐ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(1).

☐ A copy of the communication from the foreign patent office is enclosed.

OR

☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. 1.56(c) more than more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(2).

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Joseph E. Kovarik
Registration No. 33,005
1560 Broadway, Suite 1200
Denver, Colorado 80202-5141
(303) 863-9700

Date: 3/22/04

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT (Use several sheets if necessary)	ATTY. DOCKET NO. 4239-3-1-1	SERIAL NO. Not Yet Assigned
	APPLICANT KUTT et al.	
	FILING DATE Herewith	GROUP ART

U.S. PATENT DOCUMENTS

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROP.
	1.	2,373,333	4/10/1945	Onge	257	9	
	2.	3,215,057	11/2/1965	Turek	98	1.5	
	3.	3,415,310	12/10/1968	Kuhlmann	165	27	
	4.	3,565,072	2/23/1971	Gauthier	128	212	
	5.	3,587,574	6/28/1971	Mercer	128	204	
	6.	4,516,424	5/14/1985	Rowland	73	23	
	7.	4,627,860	12/9/1986	Rowland	55	162	
	8.	4,648,888	3/10/1987	Rowland	55	21	
	9.	5,101,819	4/7/1992	Lane	128	204.18	
	10.	5,109,837	5/5/1992	Garnow	128	202.12	
	11.	5,133,339	7/28/1992	Whalen et al.	128	25 R	
	12.	5,188,099	2/23/1993	Todeschini et al.	128	205.26	
	13.	5,398,678	3/21/1995	Garnow	128	205.26	
	14.	5,467,764	11/21/1995	Garnow	128	202.12	
	15.	5,685,293	11/11/1997	Watt	128	202.27	
	16.	5,799,652	9/1/1998	Kotliar	128	205.11	
	17.	5,799,652	9/1/1998	Kotliar	128	205.11	
	18.	5,846,291	12/8/1998	Delp, II	95	8	
	19.	5,850,833	12/22/1998	Kotliar	128	202.12	
	20.	5,860,857	1/19/1999	Wasstjerna et al.	454	338	
	21.	5,906,672	6/25/1999	Michaels et al.	95	12	

EXAMINER	DATE CONSIDERED
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT (Use several sheets if necessary)	ATTY. DOCKET NO. 4239-3-1-1	SERIAL NO. Not Yet Assigned
	APPLICANT KUTT et al.	
	FILING DATE Herewith	GROUP ART

	22.	5,917,135	6/29/1999	Michaels et al.	95	11	
	23.	5,924,419	7/20/1999	Kotliar	128	205.11	
	24.	5,935,516	08/10/1999	Baugh	422	1	
	25.	5,964,222	10/19/1999	Kotliar	128	205.26	
	26.	5,988,161	11/23/1999	Kroll	128	202.12	
	27.	6,016,803	01/25/2000	Volberg et al.	128	205.26	
	28.	6,508,850	01/21/2003	Kotliar	55	385.2	
	29.	6,561,185	05/13/2003	Kroll	128	202.12	
	30.	6,565,624	05/20/2003	Kutt et al.	95	8	

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANSLATION	
							YES	NO
	31.	DE 3101618	4/11/1982	Germany (Abstract Only)	F24F	3/12		X
	32.	EP 0 277 787	14/4/1993	Europe	A61G	10/02	X	
	33.	WO 96/19265	27/6/1996	PCT	A63B	23/18	X	
	34.	WO 98/34683	12/8/1998	PCT	A62B	7/10	X	
	35.	WO 01/39837	Jun. 7, 2001	PCT	A62B	7/00	X	

OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)

36.	Letter (w/enclosures) from Arc Prokop, VP of Hypoxico Inc. to the U.S. Patent Office dated July 31, 2002; 2 pgs.
-----	--

EXAMINER	DATE CONSIDERED
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	

FORM PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE INFORMATION DISCLOSURE STATEMENT (Use several sheets if necessary)	ATTY. DOCKET NO. 4239-3-1-1	SERIAL NO. Not Yet Assigned
	APPLICANT KUTT et al.	
	FILING DATE Herewith	GROUP ART

37.	Letter from Joseph Kovarik to Igor K. Kotliar dated November 30, 1999; 2 pgs.
38.	Search Results from International Search Report dated February 8, 2002 in International Patent Application No. PCT/US01/28145; 1 pg.
39.	Letter from Andrew L. Tiajloff to Joseph E. Kovarik dated December 29, 2000; 1 pg.
40.	Letter from Larry Kutt to Nicholas Ohotin dated November 6, 1997; 1 pg.
41.	Letter from Colorado Altitude Training to Gary Kotliar dated July 29, 1998; 1 pg.
42.	Letter from Larry Kutt to Gary Kotliar dated July 30, 1998; 1 pg.
43.	Letter from Larry Kutt to Gary Kotliar dated February 10, 1999; 1 pg.
44.	Web page; "CAT: About Colorado Mountain Room"; <i>Colorado Altitude Training</i> ; February 19, 2000; 2 pgs.; http://www.altitudetraining.com/about.htm
45.	Web page; "CAT: About Colorado Mountain Room"; <i>Colorado Altitude Training</i> ; February 15, 2000; pg. 1 of 2; http://www.altitudetraining.com/about.htm
46.	Web page; "CAT: Altitude Training for the New Millennium"; <i>Colorado Altitude Training</i> ; February 15, 2000; 2 pgs.; http://www.altitudetraining.com/pr4.htm
47.	Web page; "We are the Official Suppliers to the Norwegian Olympic Committee"; <i>Colorado Altitude Training</i> ; February 15, 2000; pgs. 2 and 3 of 4; http://www.altitudetraining.com/default.htm
48.	Web page; "Q: How does the Colorado Mountain Room Create Altitude?"; <i>Colorado Altitude Training</i> ; February 15, 2000; pg. 5 of 6; http://www.altitudetraining.com/FAQ.htm
49.	Email from Shaun [shaun@hypoxico.com] to Gary [gary@hypoxico.net]; <i>Hypoxico</i> ; May 6, 2000; 1 pg.
50.	"Colorado Mountain Room" advertisement; <i>Colorado Altitude Training</i> ; <i>VeloNews</i> ; May 29, 2000; pg. 37
51.	"The Outer Limits"; <i>Outside Magazine</i> ; June 2000; pgs. 1 and 2 of 3.
52.	Email from Larry Kutt [kutt@altitudetraining.com] to Dana [cat@altitudetraining.com]; February 15, 2000; 2 pgs.
53.	Web page; "Outside Online: The Hard Way"; <i>Outside Magazine</i> ; October 2000; 2 pgs.

EXAMINER	DATE CONSIDERED
*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.	